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14 UNITED STATES DISTRICT COURT  
 15 NORTHERN DISTRICT OF CALIFORNIA  
 16 SAN JOSE DIVISION

17 CHRISTOPHER A. NELSON, individually and  
 18 on behalf of all others similarly situated,

19 Plaintiff,

20 v.

21 SEAGATE TECHNOLOGY LLC,

22 Defendant.

23 No. 5:16-cv-00523-RMW

24 PLAINTIFFS' ADMINISTRATIVE  
 MOTION TO CONSIDER WHETHER  
 CASES SHOULD BE RELATED  
 PURSUANT TO CIVIL LOCAL RULES  
 3-12 AND 7-11

25 THIS DOCUMENT RELATES TO:

Ginsberg v. Seagate Technology LLC, Case No.  
 5:16-cv-00612-LHK

1                   **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2                   PLEASE TAKE NOTICE that pursuant to Civil Local Rules 3-12 and 7-11, plaintiffs Adam  
 3                   Ginsberg, Dudley Lane Dortch IV, Dennis Crawford, and David Schechner (Plaintiffs), the named  
 4                   plaintiffs in *Ginsberg v. Seagate Technology LLC*, Case No. 5:16-cv-00612, filed February 5, 2016,  
 5                   currently assigned to the Honorable Lucy H. Koh, hereby submit this Administrative Motion to  
 6                   Consider Whether Cases Should be Related Pursuant to Civil L.R. 3-12 and 7-11. Plaintiffs request  
 7                   that the *Ginsberg* action be designated as related to the above lowest numbered action, *Nelson v.*  
 8                   *Seagate Technology LLC*, Case No. 5:16-cv-00523, filed February 1, 2016, which is pending before  
 9                   the Honorable Ronald M. Whyte. (ECF No. 11.)

10                   **MEMORANDUM OF LAW**

11                   Civil Local Rule 3-12(a) defines “related cases” as those where “(1) [t]he actions concern  
 12                   substantially the same parties, property, transaction or event; and (2) [i]t appears likely that there will  
 13                   be an unduly burdensome duplication of labor and expense or conflicting results if the cases are  
 14                   conducted before different Judges.” The *Ginsberg* and *Nelson* cases meet these criteria.

15                   The first prong of Civil Local Rule 3-12(a) is certainly satisfied; *Ginsberg* and *Nelson*  
 16                   involve substantially the same parties, property, transactions *and* events. Plaintiffs’ counsel in  
 17                   *Ginsberg* are also counsel for plaintiff in the above-captioned *Nelson* action, and the two actions  
 18                   assert identical claims and involve nearly identical issues of fact and law. Both suits are putative  
 19                   nationwide class actions brought on behalf of individuals in the United States who purchased, not for  
 20                   resale, at least one Barracuda 3TB Hard Disk Drive, model number ST3000DM001, or at least one  
 21                   external drive that contained the aforesaid Barracuda drive.<sup>1</sup> (ECF No. 1 at ¶ 95; *Ginsberg* Compl. at  
 22                   ¶ 95.) Both actions allege that the same defendant, Seagate, repeatedly failed to deliver non-  
 23                   defective hard drives, despite marketing the drives as innovative, fast, powerful, reliable, dependable,  
 24                   and having extremely low failure rates. (ECF No. 1 at ¶¶ 1-4, 20-53; *Ginsberg* Compl. at ¶¶ 1-4, 20-  
 25                   53.) Accordingly, both actions involve the same defendant (Seagate), proposed class members

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<sup>1</sup> A copy of the *Ginsberg* complaint is attached as Exhibit A to the accompanying Declaration of  
 28                   Jeff D. Friedman in Support of Plaintiff’s Administrative Motion to Consider Whether Cases Should  
                  be Related Pursuant to Civil Local Rule 3-12, filed concurrently (*Ginsberg* Compl.).

1 (individuals in the United States who purchased the hard drive at issue), property (Barracuda 3TB  
 2 Hard Disk Drive), and transaction or event (purchase and failure of the Barracuda 3TB Hard Disk  
 3 Drive).

4 The second prong of Civil Local Rule 3-12(a) is also easily met. The facts underlying the  
 5 *Ginsberg* and *Nelson* actions are nearly identical such that having the cases proceed before two  
 6 different judges would likely entail a duplication of work and be a waste of judicial economy. *See*  
 7 *Wade v. Roper Indus.*, No. 13-cv-03885, 2013 U.S. Dist. LEXIS 179136, at \*6-7 (N.D. Cal. Dec. 20,  
 8 2013). Further, the *Ginsberg* and *Nelson* cases concern similar questions with respect to liability and  
 9 class certification, and call for the determination of identical or substantially similar questions of law  
 10 and fact. Both actions plead violation of California's Unfair Competition Law, California's False  
 11 Advertising Law, breach of express and implied warranties, and unjust enrichment. Both lawsuits  
 12 bring a claims asserting violation of state deceptive trade practices acts. Moreover, the central issue  
 13 in both *Ginsberg* and *Nelson* are whether Seagate failed to deliver non-defective hard drives.  
 14 Consequently, *Ginsberg* and *Nelson* will involve overlapping witnesses, experts, and discovery such  
 15 that maintaining two separate actions would be an unduly burdensome duplication of labor and  
 16 expense on the part of counsel and the courts. Relating *Ginsberg* to *Nelson* will promote substantial  
 17 efficiency and judicial economy.

## 18 CONCLUSION

19 For the foregoing reasons, the relation of these two cases would prevent unduly burdensome  
 20 duplication of labor, expenses, and costs, and would diminish the likelihood of inconsistent results.  
 21 Plaintiff respectfully requests that the Court designate the *Ginsberg* action as related to the *Nelson*  
 22 action.

23 DATED: February 10, 2016

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